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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,889	02/02/2004	Thomas Bodily	21619.NP	1093

20551 7590 11/15/2006

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EXAMINER
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MATHEW, FENN C

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/770,889

Applicant(s)

BODILY ET AL.

Examiner

Fenn C. Mathew

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/19/04</u> .                                                | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4-6, 9-10, 12-14, 17-20, and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Mahvi (U.S. 4,815,732). Referring to claim 1, Mahvi discloses a device comprising a seat back (12) configured to receive a torso of a patient, a leg board (10) pivotally coupled to the seat back, configured to receive the leg of the patient, and means for securing (42) the leg of the patient to the leg board. Referring to claim 2, Mahvi discloses means for selectively adjusting and maintaining in an angular orientation between the seat back and the leg board. Referring to claim 4, Mahvi discloses a device capable of being adjusted between 9 and 150 degrees. Referring to claim 5, Mahvi discloses a substantially vertical seat back. Referring to claim 6, as broadly construed, Mahvi discloses a tray (16) disposed in front of and spaced apart from the seat back. Referring to claim 9, Mahvi discloses the device wherein the leg board extends substantially the entire length of a user's leg. Referring to claims 10 and 12-14, the limitations are substantially similar in scope to the claims discussed above. Note rejections supra. Referring to claims 17-20 and 22-23, the method as substantially claimed is anticipated by the use of the device of Mahvi as noted in the specification.

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3. Claims 1, 7, 8, 10, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Perry, Jr. (U.S. 5,163,890). Referring to claim 1, Perry discloses a seat back pivotally coupled to a leg board, including a means for securing the leg of the patient to the leg board. Referring to claim 7, as broadly claimed, Perry discloses a base supporting the seat back and leg board configured to be disposed on a surface, the seat back having a lower end (bottom portion) slidably engaging the base, the seat back selectively oriented between a plurality of positions. Referring to claim 8, as broadly interpreted, Perry discloses a rail (76), and a support arm pivotally (19, 16) coupled to the base and seat back. Referring to claim 10, 15, and 16, note the rejections of claims 1, 7, and 8 above.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mahvi alone. Mahvi discloses the claimed invention except for a waist strap. The use of waist straps to secure a user to a seat or board are notoriously old and well known in the art. Such a modification would have been obvious to one of ordinary skill in the art at the time of invention in order to better secure a user.

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6. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry alone. Perry discloses the claimed invention including a rod coupled between the seat and leg board for adjusting the angle between the two. It is unclear whether the elongated rod is threaded engaging a coupler at 32. Such a feature would have been obvious to one of ordinary skill in the art at the time of invention in order to inhibit unwanted rotation of the elongated rod.

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mahvi in view of Wolff (U.S. 4,645,205). Mahvi teaches the claimed invention except for the patient having cerebral palsy. Wolff teaches the desirability of stretching methods for patients suffering from cerebral palsy. In view of the teachings of Wolff, it would have been obvious to one of ordinary skill in the art at the time of invention to have a patient suffering from cerebral palsy perform the claimed method steps.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



F.C. Mathew  
November 12, 2006